

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MARK NUNEZ, et al.,

Plaintiffs,

**DECLARATION OF  
CHRISTOPHER MILLER**

-against-

CITY OF NEW YORK, et al.,

11 Civ. 5845 (LTS)(JCF)

Defendants.  
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UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

-against-

CITY OF NEW YORK and NEW YORK CITY  
DEPARTMENT OF CORRECTION,

Defendants.  
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STATE OF NEW YORK )

:SS:

COUNTY OF QUEENS )

**CHRISTOPHER MILLER** declares pursuant to 28 U.S.C. Code §1746 under penalty of perjury that the following is true and correct:

1. I am the Deputy Commissioner of Classification, Custody Management and Facility Operations with the New York City Department of Correction (“DOC”), a position that I have held since July 25, 2022. Among my responsibilities is oversight of the intake processes at DOC.



2. I submit this declaration to the Court on May 17, 2023. This is my fourth report on intake; the others were submitted on February 8, 2023, March 20, 2023, and April 17, 2023.

A. New Admissions

3. Procedures for new admissions have not changed since my previous declarations.

4. Our numbers for the period April 15, 2023, to May 12, 2023 (the time since my last declaration) demonstrate that DOC is meeting its 24-hour obligation for new admissions. According to data from the New Admission Dashboard, 1,467 new male admissions were housed in the Eric M. Taylor Center (“EMTC”) during that 28-day period, an average of 52 a day. Of those, only 8 (.5 percent) were housed beyond 24 hours. The average time was 15.5 hours, excluding clock stoppages.<sup>1</sup> Seven of the eight outliers came to us on one day, Saturday May 6; their time to housing did not exceed 25.05 hours. Two of the seven that day were delayed to obtain translation services, and two others were delayed when an incident in the clinic required its closure for more than hour.

5. The numbers for the Rose M. Singer Center (“RMSC”), where women are first admitted, are similar. According to the New Admission Dashboard, 145 new admissions were housed in RMSC during the 28-day period, an average of 6 a day. Of those, none was housed beyond 24 hours; the average time was 13.10, excluding clock stoppages.<sup>2</sup>

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<sup>1</sup> As before, we use as a starting point the time when an individual came into our custody at the courthouse, and not the time that they arrived at EMTC. We stop the 24-hour “clock” when an event outside our control makes it impossible to continue to process an individual. In the recent 28-day period, there were 90 stoppages for court, 8 for hospital, 3 for URGI care, and 24 for refusals. Notably, we have begun discussions with court administrators to reduce the number of court stoppages. Now, for example, a defendant arraigned on Day 1 in Manhattan may be ordered to appear on Day 2 in the Bronx on an open case, typically one in which a warrant was issued. The quick turnaround often requires us to stop the intake process midstream. We have asked the court to put an additional day between court appearances - - to order the defendant to appear in the Bronx, in the example, on Day 3. That would allow an individual time to be housed, sleep and shower before having to be transported to court.

<sup>2</sup> There were 14 clock stoppages for court, 2 for hospital, and 25 refusals.



6. As before, the Nunez Compliance Unit (“NCU”) has continued to audit the intake process at EMTC. During the 28-day period, two audits were conducted. On April 23, 2023, NCU tracked 10 individuals newly admitted to EMTC, comparing Dashboard times to Genetec times. All 10 were housed within 24 hours. For all 10, the Dashboard arrival and housing times coincided with the Genetec times within the 20 minute grace period. One of the 10 individuals had a clock stoppage for court before his mental health evaluation could be started. He became agitated, however, and a decision was made not to transport him to court. The clock stoppage lasted seven hours but should have ended earlier when the decision not to transport him to court was made. The facility has been made aware of the issue. Even with the 7 hour clock stoppage, the individual was housed within 24 hours.

7. The second NCU audit took place on May 9, 2023, using the same methodology. Ten individuals were tracked, and all were housed in 24 hours, excluding clock stoppage. (Two of the ten had clock stoppages for court: one individual was transported to court twice.) The Dashboard data entry was less precise on May 9 than April 23. Five of the 10 individuals had a Dashboard arrival time that differed from the Genetec arrival time by more than 20 minutes. Similarly, 4 of the 10 individuals showed Dashboard housing times that differed from the Genetec housing time by more than 20 minutes. The facility is evaluating the reasons for the discrepancies and will take corrective action if appropriate.

#### B. Inter/Intra Intake

8. As I noted in my April 17 declaration, I have established a team of five officers to monitor the inter/intra facility intake process. The team gives us coverage around the clock, 24 x 7. Each facility now has an expeditor on each shift to check to see that data is entered into the Inmate Tracking System (“ITS”) and that no one languishes in intake.



9. A member of the team receives information every four hours: the name and book and case number of each individual in each intake pen, the reason that they are there, and the time of their arrival. They also receive screenshots of the ITS system and the Genetec system (for each pen) and confirm that the information is consistent with the four-hour report. If the information is not complete or is inconsistent, they call the facility for an explanation. Perhaps most importantly, if more than four hours have elapsed, they contact the facility, as well as Associate Commissioner Pace or Griffin (depending on the facility), to take steps to expedite movement.

10. In my April 17 declaration, I stated that we expected to produce inter/intra facility reports, like those for new admissions, beginning in May. That reporting is underway. We are using the ITS system to generate the reports. An inter-facility transfer requires four data points: (1) time entering intake at the sending facility; (2) time leaving intake at the sending facility; (3) time entering intake at the receiving facility; and (4) time leaving intake at the receiving facility. Total time in intake for an inter-facility transfer is  $(2-1) + (4-3)$ . For intra-facility transfers, two entries are needed: (1) time entering intake in the facility and (2) time leaving intake in the facility (to a different housing unit). The difference between the two  $(2-1)$  is the total time in intake.

11. On May 16, the ITS-generated data for 60 inter-facility transfers show that the average time in intake (counting the time in both the sending facility and the receiving facility) was 3.3 hours, and the maximum time was 8.9 hours. The data for 13 intra-facility transfers show an average time of 3.3 hours, and a maximum time of 8.2 hours. We are still working to refine the ITS-generated report but have made substantial progress.

12. I will continue to closely monitor our efforts and report to the Court on June 16.



Dated: May 17, 2023  
East Elmhurst, New York

A handwritten signature in black ink, appearing to read "Chris Miller", written over a horizontal line.

Christopher Miller